IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5765 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KIRITBHAI VAIDYA

Versus

STATE OF GUJARAT

Appearance:

M/S TRIVEDI & GUPTA for Petitioner

Mr L.R.Pujari, AGP, for Respondent No. 1

MR BP TANNA for Respondent No. 2

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 30/11/2000

ORAL JUDGEMENT

The petitioner who was working in the Municipal Medical College, Ahmedabad, as an Honorary Part-time Asst. Professor prays for a direction on the respondents

to increase the rate of honorarium to Rs.400 for the petitioner with effect from 1st March 1981 and pay the difference of Rs.100 per month on that basis.

2 According to the petitioner, the honorarium which was paid to the part-time Asst. Professors by the Municipal Corporation was only Rs.100 as is reflected in the Resolution at Annexure-D to the petition by which the appointment of the petitioner and other who are named in that order on honorary basis was extended up to 28.2.1986. The case of the petitioner is that the honorarium came to be raised by the State Government in respect of its Medical Colleges to Rs.400 per month as per the Resolution dated 23.2.1981 which is at Annexure-B to the petition. Accordingly, the honorarium part-time medical teachers at the Government Medical Colleges were being paid honorarium at the enhanced rates. The Municipal Corporation resolved to pay honorarium on the same rate as was made payable to the honorary teachers of the Government Medical Colleges but made the provision only with effect from 1.4.1987. It was contended on behalf of the petitioner that since the nature of work of an honorary professor in a Medical College run by the Government and in a Medical College run by the Municipal Corporation was same, there was no reason to deny the honorary teachers of the Municipal Medical College benefit of the enhanced rate from 1.3.1981. It was contended that this discriminatory treatment violated the fundamental right of the petitioner under Article 14 and 16 of the Constitution.

3 Admittedly, the petitioner was engaged as an honorary Asst. Professor on temporary basis on the terms stipulated in the order of his appointment which provided that the appointment was on the basis of honorarium of Rs.100 per month. This was purely a contractual arrangement between the person seeking to offer his services as an honorary teacher for a noble cause and the Municipal Corporation. The Municipal Corporation has in its affidavit-in-reply stated that the honorarium given to the petitioner does not fall in the category of salary and that the petitioner was not an employee of the Corporation. It is also stated that the respondent no.2 was not under any compulsion to adopt the Government Resolution in its entirety. It is clear that the relationship between the Corporation and the petitioner was not that of an employer and a regular employee. The petitioner is rendering only honorary services for which a taken amount was to be paid. This was purely a temporary arrangement which the petitioner willingly accepted. The petitioner had no legal right to claim

honorarium at any rate other than the rate stipulated in the order of his engagement. There was no discrimination in payment of honorarium within the same class of honorary teachers engaged by the Corporation. Honorary teachers engaged by the State Government for its medical colleges were governed by the arrangement made between them and the State Government which did not automatically bind the respondent-corporation. It is not shown that the respondent-corporation was legally bound to follow such contractual arrangements regarding the amount of honorarium that may have been fixed between the State Government and the honorary teachers engaged in its medical colleges. There is therefore absolutely no case made out by the petitioner on the basis of which he can be awarded the difference at the rate of Rs.100/- as claimed from 1.3.1981. The petitioner was not entitled to any such increase until the Corporation adopted for its honorary teachers the standards which were applicable to the honorary teachers of Government Medical Colleges. The petition is therefore rejected. Rule is discharged with no order as to costs.

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